

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11122 OF 2025

Prathamesh Developers & Anr.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

.....

- Dr. Uday Warunjikar a/w Mr. Aditya Thorat & Mr. Shrinath Badade, Advocates for Petitioners
- Ms. M.S. Shrivastav, AGP for Respondent Nos. 1 to 3
- Ms. Minal Chandnani, Advocate for Respondent Nos. 4 to 8

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 17, 2026

P. C.:

1. Heard Dr. Warunjikar, learned Advocate for Petitioners; Ms. Shrivastav, learned AGP for Respondent Nos. 1 to 3 and Ms. Chandnani, learned Advocate for Respondent Nos. 4 to 8.

2. Impugned order dated 24.04.2025 is passed by Sub-Divisional Officer, Haveli Sub-Division, Pune in RTS Appeal No. 562 of 2024 (appended at page No. 411 of Petition). Appellants therein i.e. 5 Appellants belonging to Shelke branch challenged mutation entry after a hiatus of 14 years 1 month after the said mutation entry was settled. Said Application has been allowed. Grievance of contesting Respondents therein who are Petitioners before me is that without there being a singular averment, *inter alia*, with respect to seeking condonation of delay or any such cogent Application having been

made, SDO would not assume the jurisdiction to pass the impugned order.

3. Ms. Chandnani, learned Advocate for private Respondent Nos. 4 to 8 who are Appellants before the SDO would submit that Application seeking condonation of delay was made *sans* any specific averments to that effect. Copy of that Application is appended at page No. 426 of the Petition. In that view of the matter, challenge is maintained to the impugned order.

4. It is trite law rather well settled position by this Court that unless and until the delay is condoned, Statutory Officer / Court will not assume jurisdiction to determine the substantive right in *quasi-judicial* proceedings under the Maharashtra Land Revenue Code, 1966 with regard to RTS proceedings.

5. Ms. Chandnani makes a request to Court that if the Court is inclined to set aside the impugned order on the basis of the above ground, Respondent Nos. 4 to 8 who are appellants before the SDO be permitted to file an appropriate Application in accordance with law before the SDO to maintain the substantive RTS Appeal in accordance with law. She would submit that the time spent in prosecuting the previous and present proceedings be excluded from limitation in that regard.

6. After going through the record of the case, I am inclined to accept the submissions made by Dr. Warunjikar, learned Advocate for Petitioners. Impugned order dated 24.04.2025 is *prima facie* not sustainable due to the aforesaid reasons and is therefore quashed and set aside without this Court expressing any imprimatur on merits or opinion on facts with regard to substantive rights of both the parties. It is also observed by the Court that substantial Civil Suit was filed in the year 2010 albeit not by the Petitioners and Respondent Nos. 4 to 8 before me but by another branch of the Shelke family who are entitled to a share in the subject property. Petitioners before me are subsequent purchaser / developer of a share of some of the family members of the Shelke family. There appears to be a *prima facie* dispute whether the share purchased by Petitioners would be from the divided or undivided share but that will have to be looked into by the concerned Authority while determining the *lis*. In view of the above, Respondent Nos. 4 to 8 are granted liberty to file fresh Application seeking condonation of delay in accordance with law. If such an Application is filed, it shall be decided by the learned SDO as expeditiously as possible and strictly in accordance with law and in any event within a period of eight weeks from the date of such Application being filed. Needless to state that while deciding the said Application, Petitioners and all other interested persons of the Shelke

family having rights in the said land be heard by the learned SDO before disposing of the said Application and Appeal. After the said Application is disposed of, subject to the outcome of the said Application, learned SDO can thereafter consider deciding RTS Appeal No. 562 of 2024 in accordance with law or otherwise.

7. Contentions and questions of all parties are expressly kept open including challenge to the order of the Appellate Authority as to whether for condoning the delay or as to whether determining the Appeal for the purpose of Section 252 read with Section 254 of the MLRC.

8. With the above directions, Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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